



War Damage to Laud (Scotland) Act 1941

1941 CHAPTER 40

1 Rent of lands and heritages which have sustained war damage

(1) Where for any period any dwelling house held under a short lease at a rent not exceeding ninety pounds per annum is unfit by reason of war damage and is not occupied, either in whole or in part, by the tenant no rent shall be payable under the lease in respect of that period.

(2) Where during any period

- (a) any such dwelling house as aforesaid is occupied in whole or in part by the tenant while it is unfit by reason of war damage ; or
- (b) the accommodation in any such dwelling house is substantially reduced by reason of war damage,

there shall be payable by the tenant under the lease, in respect of such period, such rent as may, in default of agreement between the landlord and the tenant, be determined in accordance with the provisions hereinafter contained.

(3) Where the rent of any such dwelling house as aforesaid is payable in advance, and the tenant has paid a sum in name of rent in respect of any period for which no rent is payable under subsection (1) of this section, or a reduced rent is payable under subsection (2) of this section, the tenant shall be entitled to recover from the landlord by deduction from rent thereafter becoming due or otherwise, the sum so paid in name of rent, or the excess thereof over the reduced rent as the case may be.

(4) For the purposes of this section, a tenant shall not be deemed to be in occupation of any dwelling house which is unfit by reason of war damage by reason only—

- (a) that furniture or other goods belonging to or used by him remain in the dwelling house ;
- (b) that he visits the dwelling house from time to time for the purpose of removing, or taking steps to preserve, any such furniture or goods ; or
- (c) that he retains possession of the keys of the dwelling house;

and where the tenant has sublet the whole or any part of the dwelling house, the occupation of the sub-tenant shall, as between the tenant and his landlord, be deemed to be the occupation of the tenant.

- (5) For the purposes of this section, a dwelling house which has been rendered unfit by war damage shall be deemed to be fit if it has been repaired to such an extent as is reasonably practicable having regard to the circumstances prevailing in the locality and sufficient to render the dwelling house reasonably capable of being used for the purposes for which it was used or adapted for use before the occurrence of the war damage, and continues to be in that state of repair.
- (6) A man of skill nominated in accordance with the provisions hereinafter contained may, failing agreement between the landlord and the tenant, issue on the application of either of them a certificate that the dwelling house has been repaired to the extent mentioned in the last foregoing subsection, and any such certificate shall while it remains in force be conclusive evidence that the dwelling house is fit.
- (7) It shall be competent for the tenant to apply for a review of the certificate on the ground that either—
- (a) the dwelling house has again become unfit either by reason of war damage or because the works of repair carried out before the issue of the certificate are no longer effective ; or
 - (b) further repairs have been reasonably practicable having regard to the circumstances prevailing in the locality since the issue of the certificate and have not been carried out;

and upon such application a man of skill nominated as aforesaid shall, if he is satisfied that on either of the grounds specified in this subsection the certificate should be revoked, revoke the certificate, and give notice of such revocation to the tenant and to the landlord ; and from the date on which such notice is given and until the landlord and the tenant otherwise agree or in the absence of agreement until a new certificate is issued under the last foregoing subsection, the dwelling house shall be deemed to be unfit by reason of war damage.

No application for a review of the certificate on the ground specified in paragraph (b) of this subsection shall be made unless a period of not less than three months has elapsed since the issue of the certificate or since the last application on that ground.

- (8) In exercising functions under the last two foregoing subsections, a man of skill shall have regard to any general directions issued from time to time by the Secretary of State, and different directions may be issued for different areas.